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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,128	02/23/2004	Oswaldo Penuela	PREDYN-44174	1666

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EXAMINER

TAYLOR, APRIL ALICIA

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/785,128

Applicant(s)

PENUELA ET AL.

Examiner

April A. Taylor

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16-18, 23-33, 35, 36 and 41-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 67-73, 75-83 and 85-87 is/are rejected.
- 7) ☒ Claim(s) 1-14, 16-18, 23-33, 35, 36, 41-66, 74 and 84 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07 April 2006 has been entered.

Claim Objections

2. Claims 1-14, 16-18, 23-33, 35, 36, and 41-87 are objected to because of the following informalities:

Re claim 1: Substitute "capable of" with -- for -- (see line 1).

Re claim 1: Substitute "user;.and" with -- user; and -- (see line 6).

Re claim 26: Substitute "capable of" with -- for -- (see line 2).

Re claim 44: Substitute "capable of" with -- for -- (see line 1).

Re claim 51: Substitute "is capable of detecting" with -- detects -- (see line 2).

Re claim 56: Substitute "capable of" with -- for -- (see line 1).

Re claim 67: Insert -- predetermined -- before the term "hazard" (see line 13).

Re claim 79: Insert -- predetermined -- before the term "hazard" (see lines 12 and 14).

(Note: Claims 2-14, 16-18, 23-25, 27-33, 35, 36, 41-43, 45-50, 52-55, 57-66, 68-78, and 80-87 are objected to since they are dependent upon an objected claim)

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 67-73, 75-83, and 85-87 are rejected under 35 U.S.C. 102(e) as being anticipated by Cho et al (US 6,628,201) (hereinafter Cho).

Re claims 67-71, 75, and 79-81: Cho teaches a method for monitoring environmental conditions of users in a potentially hazardous environment, comprising the steps of: assigning each user a device having a unique identification; logging each identification into a database; detecting a predetermined environmental hazard using a sensor of one or more of the devices; conveying the unique identification and sensor information from the one or more devices to a receiver; identifying the one or more devices detecting the predetermined environmental hazard; notifying the one or more users of the identified devices of the detection of the hazard; determining if the detected hazard exceeds a predefined limit; attaching a device to each user; and wherein the

device comprises a wristband. (See col. 9, line 22 to col. 10, line 38; and col. 12, line 48 to col. 14, line 60)

Re claims 72 and 82: Cho teaches wherein the sensor detects radiation (see col. 9, line 1+).

Re claims 73 and 83: Cho teaches wherein the detecting step includes detecting a user physical condition hazard (see col. 9, line 22 to col. 10, line 38).

Re claims 76 and 85: Cho teaches using a radio frequency transmitter to transmit the unique identification and sensor information from the one or more devices to the receiver (see col. 9, line 22 to col. 10, line 38; and col. 12, line 48 to col. 14, line 60).

Re claims 77 and 86: Cho teaches wherein the notifying step includes the step of activating an alarm to notify the one or more user of the detection of the hazard exceeding a predefined limit (see col. 9, line 22 to col. 10, line 38; and col. 12, line 48 to col. 14, line 60).

Re claims 78 and 87: Cho teaches the step of continuously monitoring the user in real time to create control data prior to detecting an abnormal physical condition (see col. 9, line 22 to col. 10, line 38; and col. 12, line 48 to col. 14, line 60).

Allowable Subject Matter

5. Claims 1-14, 16-18, 23-33, 35, 36, and 41-66 are allowable over the prior art of record.
6. Claims 74 and 84 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, taken alone or in combination, fail to teach or fairly suggest, in conjunction with other limitations in the claims, a device having a first sensor physically associated with a user for detecting predetermined environment hazards; a second sensor physically associated with a user for detecting physical conditions of the user; and means associated with the sensors for notifying the user or a third party of the detection of the environment hazard or physical condition exceeding a predefined limit.

Response to Arguments

8. Applicant's arguments filed 07 April 2006 have been fully considered but they are not persuasive.

In response to applicant's arguments, the recitation "physical and environmental conditions" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Pat. No. 4,858,125 to Washizuka et al.

US Pat. No. 5,734,625 to Kondo

US Pub. No. 2004/0017300 A1 to Kotzin et al.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to April A. Taylor whose telephone number is (571) 272-2403. The examiner can normally be reached on Monday - Friday from 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



AAT

26 June 2006



THIEN M. LE
PRIMARY EXAMINER